IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

CHARLESTON DIVISION

LEROY FULTON, Plaintiff, v. CHRISTOPHER NISBET, in his INDIVIDUAL capacity, Defendant.	C/A No.: 2:15-CV-4355-RMG-BM **COMPLAINT** (Jury Trial Demanded)

Plaintiff Leroy Fulton, by and through his undersigned counsel, complaining of Christopher Nisbet in his individual capacity, alleges as follows:

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3) & (4) and personal jurisdiction over the parties.

2. Plaintiff is a citizen and resident of Dorchester County in the state of South Carolina.

3. Upon information and belief, Defendant is a citizen and resident of Dorchester County, South Carolina.

4. All of the acts giving rise to the causes of action in this Complaint occurred in Dorchester County, South Carolina.

5. Venue is proper under 28 U.S.C. § 1391(b).

FACTUAL BACKGROUND

6. At the various times giving rise to the causes of action set forth in this Complaint, Defendant was the Dorchester County Coroner, a South Carolina Constitutional Officer, acting individually and under the color of state law.

7. Furthermore, at all times relevant hereto the Defendant was a constitutional officer elected to serve all people in Dorchester County regardless of race, gender, religious affiliation or socioeconomic status. Defendant further knew or should have known Plaintiff enjoyed constitutional rights to be free from unnecessary government interference, intrusion, and force that belonged to him regardless of his race.

8. Plaintiff is informed and believes that prior to August 25, 2015, Defendant had been trained and certified by the South Carolina Law Enforcement Division in the proper use of a handgun. Defendant was authorized in his capacity as a constitutional officer to carry a firearm.

9. On August 25, 2015, Defendant was in fact carrying a firearm and had in his possession a County issued truck.

9. Plaintiff is further informed and believes that prior to August 25, 2015, Defendant had undergone basic law enforcement training at the South Carolina Criminal Justice Academy pursuant to S.C. Code Sec. 17-5-130 and had undergone 16 hours of annual training by the South Carolina Law Enforcement Training Council for each year he held elected office, not including his first year he was elected coroner.

10. Upon information and belief, Defendant's official duties as coroner exist 24 hours a day, 7 days a week (https://www.dorchestercounty.net/index.aspx?page=596) and that sometime after midnight on August 25, 2015, while driving his County issued truck Defendant undertook an unlawful pursuit of Plaintiff and proceeded to unlawfully and without proper legal cause activate

the County truck's blue lights and chase down Plaintiff until he blocked Plaintiff into the parking area for Doty Park.

11. Defendant then got out of his County truck and approached Plaintiff in his vehicle with his weapon drawn on Plaintiff. Defendant proceeded to point his firearm at Plaintiff and ordered Plaintiff to get out of his vehicle, using racial epithets.

12. In response, Plaintiff got out of his vehicle, where Defendant continued to seize Plaintiff with his weapon drawn on Plaintiff.

13. Plaintiff was unarmed, did not have any weapons in his vehicle, and posed no threat of harm to himself, the Defendant, or others. Nonetheless, Defendant in his official capacity continued to unlawfully detain Defendant with the threat of deadly force.

14. Upon information and belief, Summerville Police Officers responded to a call to the area of Doty Park at approximately 12:42 a.m. Upon information and belief, on arrival to the scene, the Summerville Police Officers found Defendant with his weapon drawn on Plaintiff, and the police officers verbally commanded Defendant to drop his gun.

15. Plaintiff is informed and believes that but for the actions of the Summerville Police Officers he would have been shot and killed by Defendant.

16. Upon information and belief, Defendant did not initially comply and did not drop his gun until the police officers had verbally commanded him to drop his weapon numerous times.

COUNT ONE- DEPRIVATION OF PLAINTIFF'S FOURTH AMENDMENT RIGHTS ACTIONABLE UNDER 42 U.S. CODE § 1983

17. Plaintiff reincorporates and realleges all preceding paragraphs as if fully set forth herein.

18. Defendant at all times relevant to this Complaint acted under color of state law and exercised power possessed by virtue of state law in his position as Dorchester County Coroner.

19. Defendant's conduct of chasing Plaintiff down in Defendant's County issued truck, activating the truck's blue lights, blocking Plaintiff's vehicle, ordering Plaintiff out of his vehicle, and holding him at gun point deprived Plaintiff of his rights, privileges, or immunities secured by the Constitution of the United States.

20. Particularly, Defendant's conduct deprived Plaintiff of his rights protected by the Fourth Amendment of the Constitution of the United States, guaranteeing citizens the right "to be secure in their persons…against unreasonable…seizures" of the person and their right to be free from unnecessary governmental interference.

21. Defendant conducted an unlawful and unreasonable stop and furthermore used excessive force during the unconstitutional seizure of Plaintiff.

22. Defendant's actions were not objectively reasonable in light of the facts and circumstances, and Defendant conducted an unreasonable stop and seizure of Plaintiff.

23. As a direct and proximate result of Defendant's unreasonable seizure of Plaintiff and use of excessive force, Plaintiff has suffered and continues to suffer tremendous and irreparable emotional and mental harm and is entitled to actual and punitive damages.

COUNT TWO- FALSE IMPRISONMENT

24. Plaintiff reincorporates and realleges all preceding paragraphs as if fully set forth herein.

25. Defendant's conduct of chasing Plaintiff down in Defendant's County issued truck, activating the truck's blue lights, blocking Plaintiff's vehicle, ordering Plaintiff out of his vehicle, and holding him at gun point deprived Plaintiff of his liberty without justification.

26. Defendant intentionally restrained Plaintiff.

27. There was no lawful basis for Defendant's restraint and imprisonment of Plaintiff.

28. As a direct and proximate result of Defendant's false imprisonment of Plaintiff, Plaintiff has suffered and continues to suffer tremendous and irreparable emotional and mental harm and is entitled to actual and punitive damages.

COUNT THREE- ASSAULT

29. Plaintiff reincorporates and realleges all preceding paragraphs as if fully set forth herein.

30. Defendant attempted or offered with force and violence to inflict bodily harm on Plaintiff by his conduct of chasing Plaintiff down in Defendant's County issued truck, activating the truck's blue lights, blocking Plaintiff's vehicle, ordering Plaintiff out of his vehicle, and holding him at gun point.

31. Defendant's attempt or offer with force and violence was greater than reasonably necessary under the circumstances.

32. Defendant's conduct placed Plaintiff in reasonable apprehension of bodily harm.

33. As a direct and proximate result of Defendant's assault of Plaintiff, Plaintiff has suffered and continues to suffer tremendous and irreparable emotional and mental harm and is entitled to actual and punitive damages.

WHEREFORE, Plaintiff prays for a trial by jury on all issues presently raised or that may be raised in any of the pleadings hereafter and further seeks:

i. Judgment against Defendant for actual, special and punitive damages in the amount to be determined by the jury;

ii. To award Plaintiff reasonable attorney fees, costs, and expenses against Defendant, pursuant to 42 U.S.C. § 1988 and all other applicable law; and

iii. For all other and further relief as the Court and jury deem just and proper.

Respectfully submitted,

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Charleston, South Carolina